

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

CRAIG CROSBY and CHRISTOPHER
JOHNSON, on behalf of themselves and others
similarly situated,

Plaintiffs,

V.

AMAZON.COM, INC., a Delaware corporation.

Defendant.

| CASE NO.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

TABLE OF CONTENTS

	<u>Page No.</u>
I. INTRODUCTION	1
II. JURISDICTION AND VENUE	1
III. PARTIES	2
A. Plaintiffs	2
B. Defendant	3
IV. CLASS ACTION ALLEGATIONS	4
V. CHOICE OF LAW ALLEGATIONS	6
VI. FACTUAL ALLEGATIONS	6
A. Amazon Sells Defective, and Dangerous Lithium-Ion 18650 Batteries	6
B. Amazon Knows about the Defective Nature of Lithium-Ion 18650 Batteries	7
C. Defective Lithium-Ion 18650 Batteries Pose Serious Risk Of Injury	10
D. Plaintiffs Purchased Amazon Products Containing Defective Lithium-Ion 18650 Batteries	11
VII. CAUSES OF ACTION	17
FIRST CAUSE OF ACTION (Violation Of The Washington Consumer Protection Act, RCW Section 19.86.010 <i>et seq.</i> , (On behalf of Plaintiffs and the Class)	17
SECOND CAUSE OF ACTION DECLARATORY RELIEF UNDER THE DECLARATORY JUDGMENT ACT, 28 U.S.C. 2201 (On behalf of Plaintiffs and the Class)	18
VIII. PRAYER FOR RELIEF	19
IX. DEMAND FOR JURY TRIAL	19

1 **I. INTRODUCTION**

2 1. Amazon engaged in an unfair and/or deceptive business practice by falsely
 3 advertising, marketing, and selling defective, and often dangerous lithium-ion 18650 battery cells
 4 and products containing them.

5 2. Lithium-ion 18650 batteries are marketed and sold by Amazon to be used in
 6 consumer devices, including laptops, flashlights, cameras, lasers, measurement tools, children's
 7 toys, battery packs, hoverboards, and e-cigarettes.

8 3. Amazon makes numerous false and misleading representations about the
 9 characteristics of the batteries. Amazon misrepresents the energy capacity of lithium-ion 18650
 10 batteries and safety features allegedly contained in the batteries. Amazon is selling batteries with
 11 advertised characteristics that do not exist.

12 4. Not only does Amazon unfairly, unlawfully, and deceptively hide the truth about
 13 lithium-ion 18650 batteries, but they also continue to sell, market, and advertise the batteries on
 14 their website despite knowledge that the batteries are not as advertised.

15 5. Amazon's advertising, and information on its website is misleading to consumers,
 16 and Amazon has profited based on its deceptive and/or unfair practice of incorrectly leading the
 17 public to believe that the batteries had longer capacity or higher output than they did, and
 18 possessed safety features they did not. Amazon's conduct constitutes a violation of the
 19 Washington Consumer Protection Act.

20 **II. JURISDICTION AND VENUE**

21 6. This Court has personal jurisdiction over Defendant because Amazon maintains
 22 its headquarters in this district and in Washington state and has intentionally availed itself of the
 23 laws of Washington by conducting a substantial amount of business in the state that is the subject
 24 of this Complaint. Decisions regarding the advertising of these products are made at the
 25 headquarters of Amazon, which is located in this district. This Court accordingly has personal
 26 jurisdiction over Amazon.

1 7. This Court has subject matter jurisdiction because this is a class action arising
 2 under the Class Action Fairness Act of 2005 (“CAFA”), which confers original jurisdiction on
 3 the federal courts for any class action in which any member of the Class is a citizen of a state
 4 different from any defendant, and in which the matter in controversy exceeds in the aggregate
 5 \$5,000,000, exclusive of interest and costs. Plaintiffs allege that the total claims of individual
 6 Class members in this action are in excess of \$5,000,000, as required by 28 U.S.C. § 1332(d)(2)
 7 & (6). Plaintiffs are citizens of California, whereas Defendant is a citizen of Washington,
 8 satisfying 28 U.S.C. § 1332(d)(2)(A). Furthermore, the total number of Class members is greater
 9 than 100, as required by 28 U.S.C. § 1332(d)(5)(B). Federal subject matter jurisdiction thus
 10 exists.

11 8. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) because
 12 Amazon is headquartered and resides in this District. Venue is further appropriate in this district
 13 pursuant to the forum selection clause in Amazon’s online “conditions of use,” which are
 14 available when a consumer signs up for an Amazon account and makes purchases. As of May 3,
 15 2021, the conditions provide that “[a]ny dispute or claim relating in any way to your use of any
 16 Amazon Service will be adjudicated in the state or Federal courts in King County, Washington,
 17 and you consent to exclusive jurisdiction and venue in these courts.”

18 **III. PARTIES**

19 **A. Plaintiffs**

20 9. Plaintiff CRAIG CROSBY resides in Camarillo, California. During the Class
 21 period, Mr. Crosby purchased deceptive individual 18650 lithium-ion battery cells and products
 22 containing intentionally deceptive 18650 lithium-ion battery cells from Amazon.com as the
 23 direct seller after May 3, 2021, the date Amazon dropped its arbitration requirement in its
 24 Conditions of Use. At the time of purchase, Amazon’s statements and omissions had the capacity
 25 to deceive a substantial portion of the purchasing public. The products were found to have lower
 26

1 battery capacity than advertised only after the products were bought, mailed, received, and tested
 2 by Plaintiffs.

3 10. Plaintiff CHRIS JOHNSON resides in Woodland Hills, California. During the
 4 Class period, Mr. Johnson purchased deceptive individual 18650 lithium-ion battery cells and
 5 products containing defective 18650 lithium-ion battery cells from Amazon.com as the direct
 6 seller after May 3, 2021, the date Amazon dropped its arbitration requirement in its Conditions
 7 of Use. At the time of purchase, Amazon's statements and omissions had the capacity to deceive
 8 a substantial portion of the purchasing public. The products were found to have lower battery
 9 capacity than advertised only after the products were bought, mailed, received, and tested by
 10 Plaintiffs.

11 11. Absent award of the relief sought in this lawsuit, Plaintiffs Crosby and Johnson
 12 and the public will continue to suffer harm. Plaintiffs as well as the public generally continue to
 13 be at risk of future harm, as Amazon knows about its deceptive practice because of the
 14 unfavorable reviews on its website stating as much, and has refused to change its practices
 15 related to the sale of defective lithium-ion 18650 batteries. Amazon continues to make false and
 16 misleading statements in connection with the sale of such products. This continued violation of
 17 the law creates ongoing damage to Plaintiffs and to the purchasing public.

18 **B. Defendant**

19 12. Defendant AMAZON.COM, INC. is a corporation located in Washington state,
 20 and organized under the laws of the State of Delaware, with its headquarters, and principal place
 21 of business at 410 Terry Avenue, Seattle WA 98109.

22 13. Amazon Warehouse Deals is a division or arm of AMAZON.COM, INC. Amazon
 23 Warehouse Deals offers discounted goods that have been returned, warehouse-damaged, used, or
 24 refurbished products. Amazon Warehouse Deals is a direct seller of lithium-ion 18650 batteries
 25 and is responsible for the sale, marketing, and advertisement of the defective lithium-ion 18650
 26 batteries and products contain lithium-ion 18650 batteries at issue in this case. (Amazon.com,

1 Inc. including Amazon Warehouse Deals, is collectively referred to herein as “Amazon.com” or
 2 “Amazon”).

3 **IV. CLASS ACTION ALLEGATIONS**

4 14. Plaintiffs bring this class-action lawsuit on behalf of themselves and the proposed
 5 members of the Class pursuant to Rule 23(b) of the Federal Rules of Civil Procedure.

6 15. This action has been brought and may properly be maintained as a class action
 7 against Defendant Amazon because there is a well-defined community of interest in the litigation
 8 and the proposed Class is easily ascertainable.

9 16. Plaintiffs seek certification of the following Class:

10 All individuals or organizations that purchased lithium-ion 18650 batteries
 11 or products containing lithium-ion 18650 batteries from Amazon after May
 3, 2021 until the date of class certification.

12 17. ***Numerosity.*** Plaintiffs do not know the exact number of Class members but
 13 believe the Class comprises at least thousands of consumers nationwide. As such, the Class is so
 14 numerous that joinder is impractical.

15 18. ***Commonality and predominance.*** Each of the proposed Class members, are
 16 similarly situated to Plaintiffs with regard to their rights as purchasers of lithium-ion batteries
 17 from Amazon.

18 19. There are common questions of law and fact that affect all Class members. These
 19 questions predominate over questions that might affect individual Class members. These
 20 common questions include, but are not limited to, the following:

- 21 A. Whether Amazon falsely advertised lithium-ion batteries;
- 22 B. Whether Amazon’s representations regarding the deceptive and/or dangerous
 23 nature of the batteries were objectively material;
- 24 C. Whether Amazon adequately disclosed and described the deceptive and/or
 25 dangerous nature of the lithium-ion batteries and the risks associated with their
 26 use;

- 1 D. Whether Amazon's representations and descriptions of the lithium-ion batteries
- 2 and the products containing them were deceptive;
- 3 E. Whether Amazon failed to disclose objectively material information regarding the
- 4 lithium-ion batteries;
- 5 F. Whether Amazon's representations and omissions have the capacity to deceive a
- 6 substantial portion of consumers;
- 7 G. Whether Amazon's conduct violated Washington state consumer protection laws;
- 8 H. Whether Plaintiffs and the Class incurred a loss of money or property within the
- 9 meaning of the WA Consumer Protection Act due to Amazon's conduct;
- 10 I. Whether Plaintiffs, the Class and the general public are entitled to public
- 11 injunctive relief due to Amazon's conduct.

12 20. ***Typicality.*** Plaintiffs' claims are typical of Class members' claims. Plaintiffs and
 13 Class members sustained injury as a direct result of Amazon's practice of selling, marketing and
 14 advertising defective lithium-ion batteries. Thus, Plaintiffs are similarly situated to the other
 15 members of the Class and are adequate representatives of the Class.

16 21. ***Adequacy.*** Plaintiffs will fairly and adequately protect the Class members'
 17 interests. Plaintiffs and Class members have the same interests and Plaintiffs have attorneys who
 18 are competent and experienced in the prosecution of class actions and consumer protection cases.

19 22. ***Superiority.*** A class action is the superior method for fairly and efficiently
 20 adjudicating this controversy for the following reasons:

- 21 A. The monetary size of claims of the individual Class members are relatively small,
 22 and few, if any, Class members could afford to seek legal redress for the wrongs
 23 complained of;
- 24 B. Absent a class action, the Class members will likely not obtain redress of their
 25 injuries and Defendant will retain the proceeds from the violations of the laws
 26 cited herein;

1 C. This class action also provides the benefits of single adjudication and supervision
 2 by a single court; and

3 D. Plaintiffs are unaware of any unusual difficulties in managing this class action.

4 **V. CHOICE OF LAW ALLEGATIONS**

5 23. Washington law applies to Plaintiffs' claims by virtue of a Washington choice-of-
 6 law provision that is set forth in "Conditions of Use" that appear on Amazon's website. These
 7 conditions of use are available to consumers when they sign up for an Amazon account and make
 8 subsequent use of the website or purchases. In pertinent part, the choice-of-law clause contained
 9 in the conditions of use provides:

10 By using any Amazon Service, you agree that applicable federal law, and the laws of the
 11 state of Washington, without regard to principles of conflict of laws, will govern these
 12 Conditions of Use and any dispute of any sort that might arise between you and Amazon.

13 **VI. FACTUAL ALLEGATIONS**

14 **A. Amazon Sells Defective, and Dangerous Lithium-Ion 18650 Batteries**

15 24. Amazon has and continues to benefit from the sale of deceptive, dangerous, and
 16 defective lithium-ion 18650 batteries and products containing them. Amazon makes with false
 17 and exorbitant capacity claims about the lithium-ion 18650 batteries that do not perform to their
 18 alleged capacity and pose serious risk of injury. (*See Exhibits A-E*)

19 25. Amazon's affirmative statements regarding alleged battery capacity, lower price
 20 points, and safety features has the capacity to mislead Plaintiffs and the public into purchasing
 21 batteries that were deceptive, defective, and dangerous.

22 26. The energy capacity of a battery is one of the most important characteristics a
 23 consumer reviews to determine which battery to purchase. Amazon advertises the energy
 24 capacity of the battery sold in milli-amp hours (mAh). Virtually all lithium-ion cells have a rated
 25 capacity measured in milliamp-hours (mAh) or amp-hours (Ah). The higher the mAh capacity,
 26 the more useable energy.

1 27. The capacity of authentic lithium-ion 18650 batteries sold by legitimate
 2 manufacturers is under 3800 mAh. The space inside the case of every authentic lithium-ion
 3 18650 battery is the same. Cell capacity is limited by the thickness and density of the cathode
 4 and anode, and the electrolyte that can fit in the case, in addition to electrode resistance and
 5 device requirements for efficient discharge.

6 28. Lithium-ion 18650 batteries for sale on Amazon.com may list capacities ranging
 7 from less than 1300 mAh to 12000 mAh. Batteries are often listed with capacities of 9800 mAh
 8 or higher, more than double the capacity of any authentic 18650 lithium-ion battery produced by
 9 legitimate manufacturers. The deceptively marketed lithium-ion 18650 batteries frequently test at
 10 only a small percentage of their advertised capacity.

11 29. Consumers purchase higher capacity batteries from Amazon because they are
 12 attracted to the longer use duration of the batteries. Unfortunately, many of Amazon's claims are
 13 unsubstantiated, misleading, and completely deceptive.

14 **B. Amazon Knows about the Defective Nature of Lithium-Ion 18650 Batteries**

15 30. Amazon knowingly conceals the capacity of these batteries and alleged safety
 16 features in order to mislead Plaintiffs and the public into purchasing batteries that are not as
 17 advertised.

18 31. Amazon promotes the sale of deceptive and/or unfairly marketed batteries through
 19 its use of Amazon product listings uniquely identified by an Amazon Standard Identification
 20 Number ("ASIN"). Every product sold on Amazon.com is assigned an ASIN. If a seller or
 21 product has too many negative reviews, the product will be removed from the Amazon.

22 32. A removed product is often put back on Amazon's website without any
 23 substantive quality control or review by Amazon. The same product is given a different ASIN
 24 and all prior reviews of the product are removed. Therefore, the purchaser of the existing ASIN
 25 version of the product is unaware of any prior negative reviews of the same product, despite this
 26 information being known by Amazon.

1 33. Amazon is often the direct seller of the dangerous and potentially deadly items
 2 while also allowing third-party sales. Amazon has even developed their own portable lithium-ion
 3 battery packs and battery chargers, Amazon Basics Portable Power Banks. Amazon recalled six
 4 models of the Portable Power Banks in 2018 due to fire hazard.

5 34. Amazon knew or should have knowledge of this practice because on Amazon's
 6 website, there are often negative and one-star reviews for the deceptive and defective lithium-
 7 ion batteries and products containing them. Amazon customers complain that the batteries fail to
 8 reach the claimed capacity, cost too much for their actual capacity, arrive smaller than
 9 advertised, fail to include marketed safety features, and that products containing the batteries are
 10 fire hazards.

11 35. An example of a deceptive product sold by Amazon is Super Bright 2000 Lumen
 12 18650 Tactical Flashlight and 6x 3.7V Rechargeable High-Capacity Battery with Batteries
 13 Charger, Adjustable Focus and 5 Light Modes Handheld Flashlight for Camping Hiking.
 14 Amazon customer Eric Clough left a one star review for the product on June 23, 2021, stating
 15 that: "Not as described. The flashlight is fine. The batteries are NOT 5800 MaH. No where close.
 16 I have 2600 mah batteries that lasted twice as long."

17 36. Another example of a deceptive product sold by Amazon is Tokeyla 18650
 18 flashlight 5 modes with one pack two-Slot charger and 8 pcs 18650 rechargeable battery
 19 5000mAh button top batter for general purpose. Amazon customer Troy Otto left a one star
 20 review for the product on May 7, 2021, stating that: "Batteries slightly too tall and flashlight
 21 doesn't work right. Batteries don't work with the flashlight correctly. Also, these 18650 batteries
 22 are slightly taller than usual 18650's. They are too tall to fit in my ecig."

23 37. Another example of a misleadingly advertised product is the Headlamp,
 24 Headlight, Hard Hat Light 2000 Lumens IMPROVED Cree Led Ultra Bright Rechargeable
 25 Waterproof Flashlight Head Light for Camping, Outdoors (Charging equipment and Battery)
 26 included (Silver). Amazon customer Josephine left a one star review for the product on June 4,

1 2021, stating that: "Broke first use. Worked for about 15 minutes. Never worked again. Tried
 2 charging it, changing batteries etc."

3 38. As of July 28, 2021, Amazon was still listing thousands of the dangerous and
 4 falsely advertised batteries on its site, including those that Amazon knows pose safety risks.
 5 Amazon customers who purchased the counterfeit batteries, have posted negative reviews and
 6 photos demonstrating how the batteries have burned or exploded. Despite this, and being on
 7 notice by virtue of the negative reviews, Amazon continues to directly sell, advertise, and market
 8 the defective and dangerous batteries. (*See Exhibits F-I*)

9 39. For example, the following product is available for sale by Amazon: Rollerhouses
 10 7.4 Volt Rechargeable Battery 18650 Pack 2000mAh Li - Ion with Wire and JST Connector.
 11 Amazon customer Bobby A. left a one star review for the product on June 25, 2021, stating that:
 12 "Completely junk. Ordered this battery and waited a week for it to get here. I checked the
 13 voltage on the battery when it arrived and it was at "0" volts. I had no idea how long this battery
 14 had been stored at "0" volts but that is always a bad sign. I tried charging the battery anyway just
 15 to satisfy my suspension and sure enough it is junk. I don't recommend these batteries."

16 40. Amazon also has ongoing notice and knowledge of the deceptive, and dangerous
 17 nature of the batteries, due to the number of negative reviews submitted by Plaintiff Craig
 18 Crosby and other Amazon customers. Since May 3, 2021, Mr. Crosby has submitted at least
 19 seven negative reviews to Amazon for defective and dangerous lithium-ion 18650 batteries.
 20 Nevertheless, Amazon has blocked and refused to post any of Mr. Crosby's negative reviews
 21 about the batteries. Amazon's refusal to submit a review also shows it knew or should have
 22 known about its unfair and/or deceptive practice.

23 41. Despite this knowledge, Amazon refuses to remove the defective and dangerous
 24 products and fraudulently advertised lithium-ion batteries sold on its website. Instead Amazon
 25 re-lists and continues to sell and use misleading product photos to obscure the defective and
 26 dangerous nature of lithium-ion battery products.

C. Defective Lithium-Ion 18650 Batteries Pose Serious Risk Of Injury

42. Amazon also fails to adequately inform consumers of above-listed problems with the batteries for sale on their website.

43. Amazon's deceptive and/or unfair sale of lithium-ion 18650 batteries are often accompanied by misleading claims of safety protections, including that the batteries contain "short-circuit protection," "overcharge and under-charge protection," "high and low voltage cutoff," "venting," "BCP protection circuit" or that batteries are "new" in the product listing, and/or on the individual item and accompanying chargers. Notably, the batteries often fail to contain any of the safety features advertised.

44. Legitimate rechargeable batteries possess internal safety measures to minimize the risks inherent in lithium-ion batteries generally, and maximize the life of the battery. Standard safety measures may include automatic shut off switches for batteries at both maximum and minimum charge. These measures reduce the risk of injury, from overheating, fire or explosion while charging, discharging, or in the event of a short circuit.

45. Defective rechargeable lithium-ion 18650 batteries sold by Amazon often do not possess the proper, adequate, or often any safety measures found in genuine lithium-ion batteries. Absent any or all of these protective features, lithium-ion 18650 batteries pose a high risk of explosion or igniting.

46. On January 8, 2021, The U.S. Consumer Product Safety Commission warned consumers not to buy or use loose 18650 lithium-ion batteries that are separated from battery packs, because they are potentially hazardous when handled, transported, stored, charged, or used to power devices.¹

¹ United States Consumer Product Safety Commission, “CPSC Issues Consumer Safety Warning: Serious Injury or Death Can Occur if Lithium-Ion Battery Cells Are Separated from Battery Packs and Used to Power Devices”, <https://www.cpsc.gov/content/cpsc-issues-consumer-safety-warning-serious-injury-or-death-can-occur-if-lithium-ion-battery>

1 47. Amazon knows the risk of injury that defective lithium-ion 18650 batteries pose
2 to consumers, but continues to market, sell, and advertise deceptive lithium-ion 18650 batteries
3 in a way which mischaracterizes that risk.

4 **D. Plaintiffs Purchased Amazon Products Containing Defective Lithium-Ion 18650**
5 **Batteries**

6 48. Plaintiffs collected data on counterfeit lithium-ion 18650 batteries and products
7 containing the batteries purchased on Amazon by tabulating the available reviews. From May 3,
8 2021 to August 1, 2021, the reviews revealed that 72,434 lithium-ion 18650 batteries and
9 products with the batteries were reported sold by Amazon. This data is based only on the reviews
10 of items purchased, not actual items purchased, and represents only a very small fraction of the
11 counterfeit lithium-ion 18650 batteries sold by Amazon. Many of these reviews were negative,
12 indicating that the batteries were defective and/or dangerous. (See e.g. Exhibits F-I).

13 49. From June through July 2021, Plaintiff Craig Crosby purchased eight products
14 from Amazon containing deceptive and/or defective lithium-ion 18650 batteries that were
15 advertised with a number of false and misleading statements, including about their battery
16 capacity. Upon receipt of the batteries, Mr. Crosby conducted energy tests of the batteries and
17 determined that Amazon had misrepresented the capacity of a number of the batteries. Amazon
18 also made several other misrepresentations, including that products contained authentic CREE
19 LEDs, produced particular lumens, or lasted up to 100,000 hours. A number of the products,
20 however, did not arrive as advertised, did not work at all, or failed to include the advertised
21 batteries or the batteries failed to hold a charge.

22 50. From June through July 2021, Plaintiff Chris Johnson purchased three products
23 from Amazon containing defective and deceptive lithium-ion 18650 batteries. Upon receipt of
24 the products, Mr. Johnson conducted energy tests of the batteries and determined that Amazon
25 had made numerous false and deceptive statements regarding the products. These products were
26 all purchased after May 3, 2021, the date that Amazon dropped its arbitration requirement.

1 51. As of July 28, 2021, Amazon was still listing thousands of the dangerous and
 2 falsely advertised batteries on its site, including those that Amazon knows pose safety risks.

3 52. Plaintiffs purchased the following products from Amazon containing unfairly
 4 marketed, defective, and dangerous lithium-ion 18650 batteries:

<u>Product Purchased by Craig Crosby</u>	<u>Purchase Date</u>	<u>Price</u>	<u>Advertised Capacity</u>	<u>Actual Capacity</u>
Tokeyla 18650 flashlight 5 modes with one pack two-Slot charger and 8 pcs 18650 rechargeable battery 5000mAh button top batter for general purpose ASIN B08C9Q2FZK	June 4, 2021	Amazon Direct Seller: \$22.30 before tax and shipping.	Eight 18650 lithium-ion rechargeable batteries with 5000mAh capacity.	Four batteries tested at 1726mAh, 1654mAh, 1799mAh, 1631mAh. Four batteries retained in original shrink wrap packaging.
Tokeyla Full Metal 5 Modes Tactical Flashlight with 4-Pack 18650 Rechargeable Batteries and USB Charger Super Bright high Lumen Handheld Flashlight ASIN B089LNM5B8	June 4, 2021	Amazon Direct Seller: \$18.96 before tax and shipping.	Four 18650 lithium-ion rechargeable batteries with 5800mAh capacity.	All batteries tested at 1049mAh, 958,mAh, 881mAh, 906mAh.

1	Goreit Rechargeable Flashlight, LED Tactical Flashlight with 18650 Battery & USB Charger, Super Bright 900 Lumens CREE LED, Zoomable, 5 Light Modes, Water Resistant, Military Torch For Camping, Emergency	June 5, 2021	Amazon Direct Seller: \$16.26 before tax and shipping.	One 18650 lithium-ion battery with 4000mAh capacity.	The battery tested at 1890mAh.
10	ASIN B07H8JWZ3V				
12	The Revenant Super Bright LED Headlamp 4 Modes 3 CREE XM-L T6 Waterproof & Lightweight Camping Outdoor Sports Headlight	June 5, 2021	Amazon Direct Seller: \$13.46 before tax and shipping.	Four 18650 lithium-ion rechargeable batteries with 5000mAh capacity.	Two batteries tested at 39mAh, 39mAh. Two batteries retained in original shrink wrap packaging.
17	ASIN B01KVSMBK2				
19	ZXLN Portable LED Work Light, COB LED Work Light 20W, Rechargeable Outdoor Work Light, 4000mAh Power Bank for Hiking, Car Repairing, Built-in SOS Emergency Mode (Free 2X18650 Lithium Batteries)	June 11, 2021	Amazon Direct Seller: \$16.19 before tax and shipping.	Two 18650 lithium-ion rechargeable batteries with 4000mAh capacity.	The product was delivered with blue 2000mAh batteries, not the red 4200mAh batteries as advertised, item was returned for a refund.
26					

1	ASIN			
2	B07NQ7FGTN			
3	Father's Day Dad	June 11,	Amazon	One 18650 lithium-
4	Gifts Led	2021	Direct Seller:	ion rechargeable
5	Flashlight High		\$14.71	battery with
6	Lumens 4000		before tax and	5800mAh capacity.
7	LED Tactical		shipping.	
8	Rechargeable			
9	Flashlight 5			
10	Modes with			
11	Battery Zoomable			
12	Water Resistant			
13	for Hiking Biking			
14	Camping Outdoor			
15	Emergency Daily			
16	Flashlight			
17	ASIN			
18	B08J42DCQ4			
19	Super Bright	July 8,	Amazon	Six 18650 lithium-
20	2000 Lumen	2021	Direct Seller:	ion rechargeable
21	18650 Tactical		\$18.39	batteries with
22	Flashlight and 6x		before tax and	5800mAh capacity.
23	3.7V		shipping.	
24	Rechargeable			
25	High-Capacity			
26	Battery with			
	Batteries Charger,			
	Adjustable Focus			
	and 5 Light			
	Modes Handheld			
	Flashlight for			
	Camping Hiking			
	ASIN			
	B08GKYBZPC			
	Headlamp,	July 8,	Amazon	Two 18650 lithium-
	Headlight, Hard	2021	Direct Seller:	ion rechargeable
	Hat Light 2000		\$18.92	batteries with
	Lumens		before tax and	5000mAh capacity.
	IMPROVED		shipping.	
	Cree Led Ultra			
	Bright			

1	Rechargeable				38mAh and
2	Waterproof				52mAh capacity.
3	Flashlight Head				
4	Light for				
5	Camping,				
6	Outdoors				
7	(Charging				
8	equipment and				
	Battery) included				
	(Silver)				
	ASIN				
	B07ZFWDBL6				

<u>Product Purchased by Christopher Johnson</u>	<u>Purchase Date</u>	<u>Price</u>	<u>Advertised Capacity</u>	<u>Actual Capacity</u>
Led Flashlight High Lumens 4000 LED Tactical Rechargeable Flashlight 5 modes with Battery Zoomable Water Resistant for Hiking Biking Camping Outdoor Emergency Daily Flashlight	June 9, 2021	Amazon Direct Seller: \$14.99 before tax and shipping.	One 18650 lithium-ion rechargeable battery with a claimed capacity of 5800mAh capacity.	The battery tested at 891mAh.
ASIN B08J42DCQ4				
Tokeyla LED 18650 Flashlight, Including 6PCS Battery Charger, Water Resistant, Zoomable, 5 Modes Flashlight for Camping, Outdoor, Emergency,	June 9, 2021	Amazon Direct Seller: \$22.07 before tax and shipping.	Six 18650 lithium-ion rechargeable batteries with 5000mAh capacity.	All six batteries were sealed in shrink wrap. A random sample cell was Tested and found to have a capacity of 844mAh.

1	Everyday Flashlights			
2	ASIN <u>B08HQRMLMZ</u>			
3	PHIXTON LED Tactical Flashlight High Lumens, Rechargeable 5000mAh 18650 Battery Charger Gift Case Kit, Powerful L2 Adjustable Handheld Flash Light, 5Mode Waterproof Torch, For Indoor Outdoor Emergency	June 9, 2021	Amazon Direct Seller: \$15.29 before tax and shipping.	One 18650 lithium- ion battery with 5000mAh capacity. The battery tested at 906mAh.
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16	ASIN <u>B074PXZSRV</u>			

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1 **VII. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **(Violation Of The Washington Consumer Protection Act,**

4 **RCW Section 19.86.010 *et seq.*,**

5 **(On behalf of Plaintiffs and the Class)**

6 53. Plaintiffs incorporate the allegations in preceding paragraphs as if fully set forth
7 herein in full.

8 54. The Washington consumer Protection Act, RCW 19.86 *et seq.*, provides
9 consumers with a comprehensive procedure for redressing Defendants' unfair or deceptive
10 business practices.

11 55. Under the Washington Consumer Protection Act, an out-of-state plaintiff may
12 bring a claim under the Washington Consumer Protection Act against a Washington-based
13 corporation with its headquarters location in Washington state for its unfair and/or deceptive
14 acts.

15 56. Defendant's acts and omissions as alleged herein violate the Washington CPA
16 because they: (1) are unfair or deceptive acts or practices; (2) are committed in the course of
17 Defendants' business; (3) affects the public interest; and (4) have caused injury to (5) Plaintiffs
18 in their business and/or property and to the members of the Class.

19 57. Amazon's above-described conduct in failing to disclose and concealing the,
20 unfair, defective and/or dangerous nature of lithium-ion batteries sold on their website
21 constitutes an unfair trade practice, and unfair and/or deceptive acts and practices, within the
22 meaning of the Washington Consumer Protection Act, RCW 19.86 *et. seq.*

23 58. Amazon's above-described conduct affects the public interest because it affected
24 and injured or had the capacity to injure a substantial portion of the purchasing public. The
25 conduct complained of is capable of repetition and will likely affect other consumers.
26

1 59. As a result of Amazon's above-described unfair and deceptive conduct, Plaintiffs
2 and the Class members were injured and/or damaged by the wrongful acts and practices of
3 Amazon.

4 60. Defendant's actions illustrate why a permanent injunction is necessary to protect
5 Plaintiffs and the general public from similar unfair and unconscionable treatment.

6 61. Defendant's actions and inactions as alleged herein are the proximate cause of
7 injury to Plaintiffs and the Class in an amount to be proven at trial.

8 62. The balance of the equities favors the entry of permanent injunctive relief against
9 Amazon. The public will be irreparably harmed absent the entry of permanent injunctive relief
10 against Amazon. The public lacks an adequate individual remedy at law, preventing meaningful
11 litigation over individual counterfeit product sales. An injunction against Amazon is in the public
12 interest. Amazon’s unlawful behavior is likely to reoccur absent the entry of an injunction.

SECOND CAUSE OF ACTION

DECLARATORY RELIEF UNDER THE DECLARATORY JUDGMENT

ACT, 28 U.S.C. 2201

(On behalf of Plaintiffs and the Class)

17 63. Plaintiffs and the Class reallege the preceding paragraphs as if fully set forth
18 herein.

19 64. An actual and existing dispute exists between Plaintiffs and Amazon which
20 involves direct and substantial interests

21 65. Amazon's statements on its website have a tendency to mislead and deceive
22 members of the Class.

23 66. Plaintiffs are entitled to have this Court establish by declaration their rights and
24 legal relations under the Washington CPA.

25 67. A judicial determination will be final and conclusive of the Plaintiffs' rights under
26 the Washington CPA.

1 **VIII. PRAYER FOR RELIEF**

2 68. WHEREFORE, Plaintiffs demand judgment in their favor and in favor of the
3 Class members for:

- 4 A. An Order certifying that Plaintiffs and the proposed Class members constitute a
5 single class and designating the action as a Class Action pursuant to Federal Rule
6 of Civil Procedure 23;
- 7 B. Appointment of Plaintiffs as class representatives and payment of compensation
8 as representatives if the Court deems appropriate;
- 9 C. Appointment of the attorneys below as Class counsel; and
- 10 D. Declaration that Amazon has violated the applicable laws as set forth above;
- 11 E. Award permanent public injunctive relief against Amazon;
- 12 F. Award reasonable attorney's fees and costs; and
- 13 G. Provide such other and further relief the Court deems just and proper.

14 **IX. DEMAND FOR JURY TRIAL**

15 Plaintiffs hereby demand a jury trial on all issues so triable.

16 Dated: August 13, 2021

COTCHETT, PITRE & McCARTHY, LLP

17 By: /s/Karin Swope
18 Karin B. Swope

19 KARIN B. SWOPE (WSBA # 24015)
20 kswope@cpmlegal.com
COTCHETT, PITRE & McCARTHY, LLP
21 7511 Greenwood Avenue N, Suite 4057
22 Seattle, WA 98103
23 Facsimile: (650) 697-0577

24 NIALL P. McCARTHY (*pro hac vice* pending)
nmccarthy@cpmlegal.com
25 BETHANY M. HILL (*pro hac vice* pending)
bhill@cpmlegal.com
COTCHETT, PITRE & McCARTHY, LLP
26 San Francisco Airport Office Center

840 Malcolm Road
Burlingame, CA 94010
Telephone: (650) 697-6000
Facsimile: (650) 697-0577

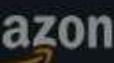
Attorneys for Plaintiffs and the Proposed Class

CLASS ACTION COMPLAINT
(Case Number --)

20

Cotchett, Pitre & McCarthy, LLP
7511 Greenwood Avenue N., Suite 4057
Seattle, WA 98103

EXHIBIT A



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EXHIBIT B

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- Resistant, water and shock resistant, can be used in the rain, snow situation.
- Arrangement & zoomable: 5 mode high / middle / low / flash / strobe , zoom by pulling the head of the flashlight.
- Smart charger: fit for 18650/18490/17670/17600 /16340/14500/ rechargeable lithium batteries; the indicator light on charger is red when the battery is charging and is green when charge fully.
- Tactical, full metal, and practical design makes it a perfect for camping, fishing, hunting or dog walking.

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Mini and Portable



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18650 Tactical Flashlight and
6x 3.7V Rechargeable High-
Capacity Battery with
Batteries Charger, Adjustable
Focus and 5 Light Modes...



or gets wet. Adjustable focus with 5 modes: High, Medium, Low, Strobe, and SOS/Emergency protect your safety.

EXHIBIT D

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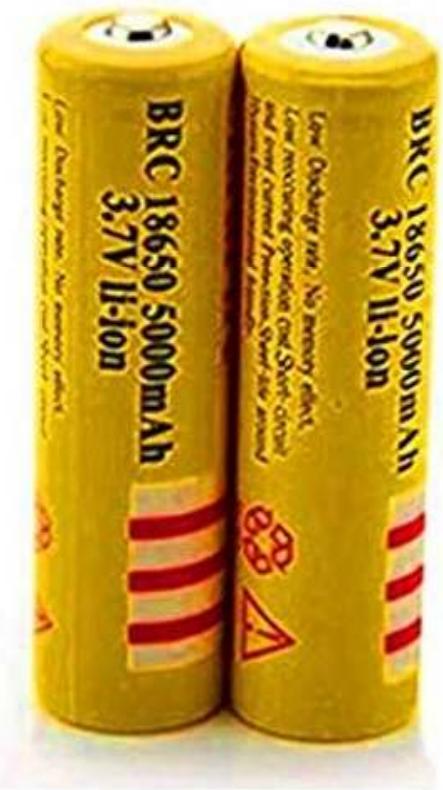
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EXHIBIT F

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JTL

5 star review Danger - exploding batteries - so not buy!!!

Reviewed in the United States on February 15, 2021

Verified Purchase

Danger - Exploding Batteries



One person found this helpful

Helpful

Report abuse

Josephine Guenther
Reviewed in the United States on February 15, 2021

Verified Purchase

Worked for about 15 minutes

Helpful

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james wallace
Reviewed in the United States on February 15, 2021

Verified Purchase

Works great for 5 to 8 minutes

oddball size so not like you can just go get new ones.



5 star review Danger - exploding batteries - so not buy!!!

By JTL on February 15, 2021

Danger - Exploding Batteries - do not buy

Images in this review



EXHIBIT G



JTL

★★★★★ **Danger - exploding batteries - so not buy!!!**

Reviewed in the United States on February 15, 2021

Verified Purchase

Danger - Exploding Batteries - do not buy



One person found this helpful

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Josephine Guenther

★★★★★ **Broke first use**

Reviewed in the United States on June 4, 2021

Verified Purchase

Worked for about 15 minutes. Never worked again. Tried charging it, changing batteries, etc.

Helpful

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james wallace

★★★★★ **Not a good deal**

Reviewed in the United States on October 21, 2020

Verified Purchase

Works great for 5 to 8 minutes then batteries start going dead. The light is great but batteries are junk. They are an oddball size so not like you can just go get new ones.

Helpful

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harbinger

★★★★★ **Product will be returned**

Reviewed in the United States on January 17, 2021

Verified Purchase

EXHIBIT H

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★★★★★ Battery Compartment Blew up

By George H on April 3, 2021

Left headlamp on charge one night and came back the next morning to find the battery had exploded with such force it blew the back off of the battery compartment. There was paper confetti on the floor around my desk the looks to have been inside the exploded battery. Purchased this headlamp in Feb 2021 and at most the headlamp was used 3 times.

Seller offered to replace it but gave no information as to how to contact him with a shipping address. Send a 2nd message and received the same canned response. I don't see much happening at this point.

Images in this review



EXHIBIT I



George H

★★★★★ **Battery Compartment Blew up**

Reviewed in the United States on April 3, 2021

Verified Purchase

Left headlamp on charge one night and came back the next morning to find the battery had exploded with such force it blew the back off of the battery compartment. There was paper confetti on the floor around my desk the looks to have been inside the exploded battery. Purchased this headlamp in Feb 2021 and at most the headlamp was used 3 times.

Seller offered to replace it but gave no information as to how to contact him with a shipping address. Send a 2nd message and received the same canned response. I don't see much happening at this point.



5 people found this helpful

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lonora

★★★★★ **Will not hold a charge**

Reviewed in the United States on December 14, 2020

Verified Purchase

I was very disappointed in this like you charge it completely within 30 minutes it's already starting to die

6 people found this helpful

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David DeGrood

★★★★★ **Didn't Last Long!**

Reviewed in the United States on May 2, 2021

Verified Purchase

I purchased two of this head lamp. One stopped working after just a few hours use. I thought maybe it wasn't fully charged, and when I plugged it up to charge, the light came on. Unplug it, it wouldn't work. Stayed this way. So, I opened up the other one I had purchased. It worked fine for several weeks, but started falling apart. I guess these head lamps need to be babied to last. They're not durable enough for daily use. With my job, they're not for me.